

ADMINISTRATIVE RECORD INDEX

for the

**BEEDE WASTE OIL SUPERFUND SITE
FIFTH DE MINIMIS CONSENT DECREE SETTLEMENT**

United States of America and State of New Hampshire, Plaintiffs

v.

ExxonMobil Corporation et al., Defendants

Civil Action No. _____ (Dist. NH)



REGION I (NEW ENGLAND REGION)

Date: February 13, 2007

Introduction

The documents listed in this index were relied upon by EPA Region I in determining that a *de minimis* settlement, pursuant to Section 122(g) of the Comprehensive Environmental Response, Compensation and Liability Act (“CERCLA”),¹ 42 U.S.C. § 9622(g), is practicable and in the public interest. These documents were also employed by EPA Region I in making party-specific findings with regard to the relative amount and toxic or other hazardous effects of the substances contributed by each party. In making these determinations, EPA also relied on information referenced in or appended to the documents listed in this index. Information so referenced or appended is incorporated by reference into this Administrative Record.

This Administrative Record for the Beede Waste Oil Superfund Site Fifth *De Minimis* Consent Decree Settlement is available for public review at the EPA Region I Superfund Records Center, One Congress Street, Boston, MA. Questions concerning this Administrative Record may be directed to the EPA Region I Superfund Records Center at:

EPA New England OSRR Records and Information Center
1 Congress Street, Suite 1100 (HSC)
Boston, MA 02114
(by appointment)
617-918-1440 (phone)
617-918-1223 (fax)
“www.epa.gov/region01/superfund/resource/records.htm”

The Administrative Record is compiled consistent with CERCLA, as amended by the Superfund Amendments and Reauthorization Act of 1986 and the Small Business Liability Relief and Brownfields Revitalization Act of 2002.

Note that there are many documents listed in this index which are followed by “AR1,” “AR2,” “AR3,” and/or “AR4.” This indicates the documents which are in the administrative record for the First De Minimis Settlement (AR1), the Second De Minimis Settlement (AR2), the Third De Minimis Settlement (AR3), or the Fourth De Minimis Settlement (AR4) at Beede. Because such documents are already included in one or more of the administrative records from those previous Beede settlements, hard copies are not included as part of this administrative record for the Fifth De Minimis Settlement at Beede. Instead, such documents are incorporated by reference herein. To view a document indicated by “AR1,” “AR2,” “AR3,” or “AR4” one should refer to the applicable administrative record for the prior (first, second, third, or fourth) de minimis settlement at Beede.

¹ Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. §§ 9601 et seq., commonly known as “Superfund.”

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SECTION I: SITE SPECIFIC DOCUMENTS

2.0 Removal Response

2.9 Action Memoranda²

1. Beede Waste Oil Removal Action Administrative Record File, August 1996.
2. Beede Waste Oil Removal Action File Addition, October 1997 (revised July 1999).
3. Beede Waste Oil Non-Time Critical Removal Action Administrative Record, September 1998.
4. Beede Waste Oil Non-Time Critical Removal Action Update, February 2003.

3.0 Remedial Investigation (RI)

3.6 Remedial Investigation (RI) Reports

1. Beede Waste Oil RI/FS Remedial Action Administrative Record File, as of February 2003 (includes Remedial Investigation (RI), Feasibility Study (FS), Proposed Plan and all technical documents).

5.0 Record of Decision (ROD)

5.4 Record of Decision (ROD)

² Due to the voluminous nature of the Administrative Records, EPA encourages you to access these documents electronically. All six of the Administrative Records listed under Sections 2.0, 3.0 and 5.0, and many of the other materials listed in this Index, are available electronically at “<http://www.epa.gov/region01/superfund/sites/beede>” and/or from the EPA Region I Superfund Records Center or the Plaistow Public Library. All of the Administrative Records listed under Sections 2.0, 3.0 and 5.0 are incorporated by reference herein.

1. Beede Waste Oil Superfund Site Plaistow, New Hampshire Record of Decision Administrative Record (ROD signed January 9, 2004).

10.0 Enforcement/Negotiation

10.1 Correspondence

1. Letter dated December 28, 2000 from Robert Varney, Commissioner, New Hampshire Department of Environmental Services to Mindy Lubber, Regional Administrator, U.S. Environmental Protection Agency entitled: Support of Planned Enforcement and Remedial Activities Beede Waste Oil Superfund Site in Plaistow, New Hampshire. (AR1, AR2, AR3, AR4)

10.7 EPA Administrative Order on Consent

1. Administrative Order on Consent (AOC) in U.S. EPA Docket No. CERCLA 01-2004-0012, signed by Larry Brill, (Acting), for Susan Studlien, Director, Office of Site Remediation and Restoration on August 27, 2004. (AR4)
2. Appendices to the Administrative Order on Consent: Appendix A(1) - Respondents and Appendix A(2) Respondent Federal Agencies to Administrative Order on Consent; Appendix B - Site Map; Appendix C - Fourth De Minimis Generator PRP Settlement Offer Amounts; Appendix D - Declaration of Trust; Appendix E - Payment Invoice. (AR4)
3. Memo dated May 11, 2004 from James DiLorenzo and Sharon Hayes, Remedial Project Managers, to File entitled: Summary of EPA Costs for Fourth De Minimis Settlement Offer - Beede Waste Oil Superfund Site. (AR4)
4. Memo dated March 22, 2004 from Richard Pease, NH DES to Sharon Hayes, Remedial Project Manager, EPA, entitled: Summary of Costs for Fourth De Minimis Settlement Offer. (AR4)

10.8 EPA Consent Decrees

1. Beede Waste Oil Superfund Site RD/RA Consent Decree, Civil Action No. _____ (Dist. N.H.), and Appendices to the Consent Decree [includes Appendix A (Record of Decision),³ Appendix B (Statement of Work), Appendix C (Description and/or Site Map), Appendix D (List of *De Minimis* Settling Defendants), Appendix E (List of Owner Settling Defendants), Appendix F (List of Settling Federal Agencies), Appendix G

³ See footnote 2.

(*De Minimis* Settling Federal Agency), Appendix H (List of Performing Settling Defendants (Generators and Owner/operators)), Appendix I (List of Settling ATP Defendants), Appendix J (List of Financial Documents Submitted by Settling ATP Defendants), Appendix K (Draft Easements (2)), Appendix L (Draft Confidentiality Agreement), and Appendix M (List of Excepted Liens and Encumbrances)].

2. Copies of settling private party signature pages.

11.0 Potentially Responsible Parties (PRPs)

11.1 Potentially Responsible Party (PRP) Lists

1. Beede Waste Oil - Alphabetical Address List of Remaining Generators (This list is dated June 2006 and contains the names and contact information of the remaining generators for whom there is confirmed contact information, excluding those parties that settled in the 1st, 2nd, 3rd, or 4th *De Minimis* Settlement).
2. Beede Waste Oil - Volumetric Ranking List of Remaining Generators (This list is dated June 2006 and includes the same parties as the alphabetical list at 11.1.1. above but in rank order, by volume).
3. Beede Waste Oil Volumetric Ranking List of all generators (This list is dated November 2002 and lists all generators in rank order, by volume). (AR3, AR4)

11.5 Multiple PRP Documents

1. Letter entitled: Urgent Legal Matter — EPA Must Receive Response by December 15, 2006; Consent Decree Settlement Opportunity; Beede Waste Oil Superfund Site (Plaistow, New Hampshire) {Major Party Letter with enclosures [TEMPLATE]}, dated November 22, 2006.
2. Letter entitled: Urgent Legal Matter — EPA Must Receive Response by December 15, 2006; Comprehensive Fifth Beede Settlement and *De Minimis* Cashout Offer; Beede Waste Oil Superfund Site (Plaistow, New Hampshire) {*De Minimis* Party Letter with enclosures [TEMPLATE]}, dated November 21, 2006.
3. Document entitled: Premium Explanation Document / Comprehensive Fifth Beede Settlement and *De Minimis* Cashout Offer / Beede Waste Oil Superfund Site (January 2007).
4. Letter Entitled: Update for Parties with Financial Hardship Claims Previously Analyzed by EPA; Beede Waste Oil Superfund Site (Plaistow, New Hampshire) {ATP claimant informational letter [TEMPLATE], with

- enclosed September 28, 2005 large de minimis party informational letter entitled Notice of Commencement of Enforcement Activities - Beede Waste Oil Superfund Site [TEMPLATE]}, dated October 23, 2006.
5. Letter entitled: EPA Denial of Financial Hardship Claim (Ability to Pay) - Beede Waste Oil Superfund Site (Plaistow, NH) {ATP Denial [TEMPLATE]}}, dated November 8, 2005.
 6. Letter entitled: EPA Approval of Financial Hardship Claim (Ability to Pay) - Beede Waste Oil Superfund Site (Plaistow, NH) {ATP Approval [TEMPLATE]}}, dated November 8, 2005.
 7. Letter entitled: Urgent Legal Matter - Response Required by August 9, 2004; Fourth De Minimis Settlement Offer at the Beede Waste Oil Superfund Site in Plaistow, New Hampshire {Fourth De Minimis offer letter [TEMPLATE]}}, dated May 18, 2004. (AR4)
 8. Memo dated August 28, 2001 from James DiLorenzo, Remedial Project Manager to Files entitled: Explanation of De Minimis and De Micromis Determinations for the Initial, Early Cashout Settlement at the Beede Waste Oil Superfund Site (Plaistow, NH). (AR1, AR2, AR3, AR4)
 9. Letter entitled: Urgent Legal Matter: Response Required within sixty (60) days of Receipt; General Notice of Potential Liability and Initiation of Enforcement Process - Beede Waste Oil Superfund Site (Plaistow, NH) {de minimis party general notice letter [TEMPLATE]} (June 2001). (AR2)
 10. Signed copies of General Notice Letters and final settlement documents from the First, Second, Third, and Fourth De Minimis Settlements at Beede are all located in the PRP files. Due to the volume of pages, these documents were electronically scanned to increase their accessibility to interested parties. The public documents are available electronically at the EPA Region I Superfund Records Center listed above and are incorporated by reference herein.

11.8 Evidence

1. Hazardous Waste Manifests, Drivers logs, Floating Manifests, Transporter records, Site operating records, Corporate records and 104(e) request responses were relied on to determine party volume. These documents consist of more than 500,000 pages and were electronically scanned to increase their accessibility to interested parties. The public documents are available electronically at the above-referenced EPA Region I Superfund Records Center in Boston, Massachusetts. Hard copies of the evidence are available upon request to EPA.

12.0 Cost Recovery

12.3 Cost Summaries

1. Memo, dated February 5, 2007, from James S. Chow, Remedial Project Manager, to File entitled: Summary of EPA Costs for the Fifth Comprehensive Consent Decree Settlement and *De Minimis* Cashout Offer {EPA cost summary for costs through September 30, 2006, less costs recovered at the Site}.
2. Letter, dated August 4, 2006, from Richard Pease, NH DES, to EPA Remedial Project Manager James Chow entitled **State Past Costs** {Summary of State of New Hampshire costs through June 30, 2006}.

16.0 Natural Resources

16.3 Natural Resources Trustee

1. Letter dated May 29, 2001 from Patricia L. Meaney, Director, Office of Site Remediation and Restoration, to Kenneth Finklestein, National Oceanic and Atmospheric Administration notifying NOAA of potential damages to natural resources resulting from the Beede Waste Oil Site. (AR1, AR2)
2. Letter dated May 29, 2001 from Patricia L. Meaney, Director, Office of Site Remediation and Restoration, to Kenneth Carr, Department of Interior, United States Fish & Wildlife Service notifying DOI of potential damages to natural resources resulting from the Beede Waste Oil Site. (AR1, AR2)
3. Letter dated May 29, 2001 from Patricia L. Meaney, Director, Office of Site Remediation and Restoration, to Robert W. Varney, Commissioner, New Hampshire Department of Environmental Protection, notifying NHDES of potential damages to natural resources resulting from the Beede Waste Oil Site. (AR1, AR2)
4. Letter dated June 26, 2001 from Robert Varney, Commissioner, New Hampshire Department of Environmental Services to Patricia L. Meaney, Acting Deputy Regional Administrator regarding Natural Resource Damage claims with the small PRPs (De Micromis and Small De Minimis Generators) at the Beede Waste Oil Site. (AR1, AR2)

SECTION II: GUIDANCE DOCUMENTS

1. Guidance, dated June 19, 1987, entitled: Superfund Program; De Minimis Contributor Settlements. 52 Fed. Reg. 24333 (June 30, 1987). (AR1, AR2)
2. Guidance of Premium Payments in CERCLA Settlements, OSWER Directive No. 9835.6 (November 17, 1988). (AR1, AR2)
3. Methodologies for Implementation of CERCLA Section 122(g)(1)(A) De Minimis Waste Contributor Settlements, OSWER Directive 9834.7-1B (December 20, 1989). (AR1, AR2)
4. Final Guidance on Preparing Waste-In Lists and Volumetric Rankings For Release to Potentially Responsible Parties Under CERCLA, OSWER Directive No. 9835.16 (February 22, 1991). (AR1, AR2)
5. Methodology for Early De Minimis Waste Contributor Settlements Under CERCLA Section 122(g)(1)(A), OSWER Directive No. 9834.7-1C (June 2, 1992). (AR1, AR2)
6. Streamlined Approach for Settlement With De Minimis Waste Contributors Under CERCLA Section 122(g)(1)(A), OSWER Directive No. 9834.7-1D (July 30, 1993). (AR1, AR2)
7. Standardizing the De Minimis Premium (July 7, 1995). (AR1, AR2)
8. General Policy on Superfund Ability to Pay Determinations (September 30, 1997). (AR3)
9. Issuance of Revised Model CERCLA Section 122(g)(4) De Minimis Contributor Consent Decree and Administrative Order on Consent and New Model Ability to Pay Provisions for Use in De Minimis Settlements (August 12, 2003). (AR4)
10. Interim Guidance on the Ability to Pay and De Minimis Revisions to CERCLA Section 122(g) by the Small Business Liability Relief and Brownfields Revitalization Act (May 17, 2004). (AR4)